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OLC 70-0752

21 October 1970

MEMORANDUM FOR: The Director

SUBJECT: Developments During Your Absence

1. Mahon Subcommittee:

On 13 October General Cushman briefed the Mahon Subcommittee (with all members present) on Soviet naval activities in Cuba, the Middle East situation, Vietnam, and Cambodia. Ensuing questions dealt, among other things, with Laos and ChiCom and Soviet military developments.

In response to a question by Mahon about the Fulbright amendment, the General said that actions involving the following still appeared permissible: support of U.S. forces; Vietnamization; interdiction; Khmer Krom and similar activities in border and sanctuary areas. He said the Fulbright amendment restrictions applied mainly to "propping up" the governments of Southeast Asia. Mahon commented that "propping up" some of these governments might be to our definite advantage. The General said you were taking a firsthand look at the problem on your present trip and might be in touch with the Subcommittee upon your return.

Other points of interest:

a. Mahon thought Rivers had performed a great service by blasting Soviet naval activity in Cuba.

b. There was considerable interest in the extent of Cuban revolutionary activity in Latin America.

c. Bow is concerned about Uruguay.

d. All the members are worried about kidnappings in Canada and elsewhere and wonder if this is part of a world-wide plot.

State Dept. review(s) completed.

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GRC, 2/25/2003

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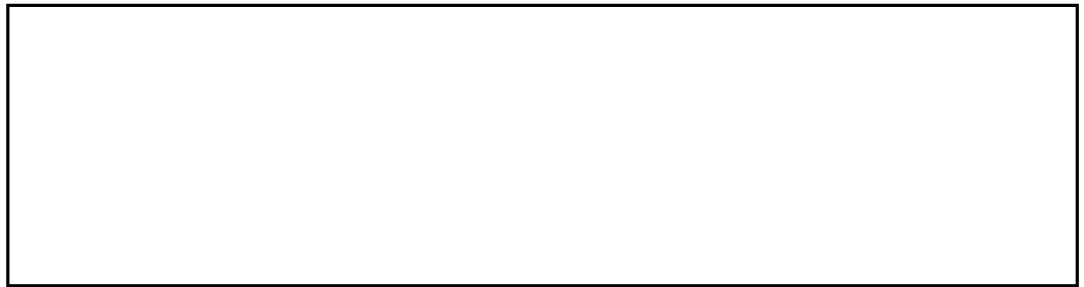
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e. Mahon is concerned about the Soviet arms program and the possibility that we will be "out-gunned strategically." He wants maximum advance info on Soviet plans. He wishes that CIA's objectivity was shared by the Armed Services. For further details see Tab A.

2. Cienfuegos:

In addition to the Mahon Subcommittee, the following have been briefed on Cienfuegos:

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On 13 October General Cushman accompanied by [REDACTED] of OSR and me met with Rivers and Slatinshek for about fifty minutes during which Rivers was shown the latest photographs and was given a thorough rundown of information available at that time. He was again reminded of the security holddown. He said he had discussed the problem with Kissinger, and had told Kissinger he would not tolerate any interference with his own access to information of this kind. He said he would hold the briefing in confidence, however. (Incidentally, [REDACTED] of DDS, who is a friend and neighbor of Mendel Rivers, reports that he has been speaking well of us lately. Tab B.)

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b. Young: In response to his request, Milton Young was briefed on Cienfuegos by [REDACTED] on 14 October. At the same time we called Young's attention to the problems of the Fulbright amendment. Young remarked that Senator Russell seemed to be in fair shape at the moment and might well be able to manage the Defense Appropriation bill when it comes before the Senate next month.

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c. Jackson: In response to his request, on 8 October I briefed Scoop Jackson on Cienfuegos, and also mentioned to him the successes of [REDACTED] and the Doghouse radar tests.

d. Mondale: Mondale requested a briefing on Cienfuegos but he accepted, apparently in good grace, our suggestion that he go to DOD.

In addition to the above, we have kept Woodruff, Braswell, Slatinshek, and Preston up to date on Cienfuegos, making sure that they understand the high level holddown.

### 3. Agency Retirement Program:

With considerable prodding, culminating in your 6 October letter to Deputy Director Weinberger, OMB cleared Title II of our proposed legislation which was then transmitted to the Congress on 13 October, before the recess.

Title I, the comprehensive financing provisions approved last year for the Civil Service and Foreign Service systems, is stalled in OMB awaiting resolution of a new Treasury policy for the funding of all Federal retirement systems.

Title II answers our immediate needs for relief from the retirement quota. It also:

a. Transfers Government contributions from the Civil Service to the CIA Fund, immediately increasing our Fund by some \$20 million.

b. Adopts the more liberal Foreign Service formula for retention of salary upon Government reemployment after retirement.

c. Conforms child survivorship provisions to changes approved for Civil Service.

d. Makes several technical adjustments.

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Most of Title II was passed by the House in the 89th Congress, but Rivers has said that the Senate must act first this time. Therefore, we will have to put pressure on Stennis if we expect to get favorable action when Congress returns on 16 November. In the meantime we are working with Braswell to clear the way.

4. On 8 October Messrs. Duckett and Brandwein briefed Margaret Chase Smith and staff members of the Committee on Aeronautical and Space Sciences on the Soviet space program.

5. On 8 October Scoop Jackson asked if an Agency expert on verification could participate in a briefing of his SALT Subcommittee of Armed Services by members of the SALT delegation in executive session on 13 October. We begged off from appearing in a formal session, but offered to discuss verification with Jackson privately. Word came back that he would not be available but would like us to brief Richard Perle of his staff, which Carl Duckett did on 21 October.

6. On 9 October Fulbright wrote you a "Dear Dick" letter inquiring about one [ ] former secretary in the U.S. Education Foundation in Athens, who had been arrested by the Junta. After checking with [ ] I called Richard Moose of the Foreign Relations Committee staff, who is handling the problem for Fulbright, and explained that the Greek authorities insist that there is evidence against [ ] which is valid, and that [ ] [ ] tends to agree. Moose said he thought this oral answer would satisfy the Senator.

7. In connection with the increase in our budget, Bill Woodruff has indicated they would like to schedule another budget session on 19 November. He says they probably will also want a world wrap-up, comments on your trip, and discussion of the effects of the Fulbright amendment. He has in mind a meeting of our Appropriations Subcommittee only (which hasn't met since 19 May), under Ellender's chairmanship if Russell is not available.

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8. I understand NIPE is reporting to you on the PFIAB meeting of 9 October at which the Fulbright amendment and proposals for a Joint Watchdog Committee were discussed. The material we contributed on these subjects is attached at Tab C.

~~25X1C~~ On 8 October Senator Case wrote to Secretary Rogers asking about [REDACTED] Tab D. We have discussed with State the possibility of our jointly meeting with the Senator and trying to handle the matter orally, and the ball is now in their court.

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[REDACTED]

John M. Maury  
Legislative Counsel

Attachments:  
Tabs A - D

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| UNCLASSIFIED   |                                    | CONFIDENTIAL |              | SECRET         |  |
| <b>OFFICIAL ROUTING SLIP</b>   |                                    |              |              |                |  |
| TO   | NAME AND ADDRESS                   |              | DATE         | INITIALS       |  |
| 1  | Legislative Counsel<br>7 D 35 Hqs. |              |              |                |  |
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|  | ACTION                             |              | DIRECT REPLY | PREPARE REPLY  |  |
|  | APPROVAL                           |              | DISPATCH     | RECOMMENDATION |  |
|  | COMMENT                            |              | FILE         | RETURN         |  |
|  | CONCURRENCE                        |              | INFORMATION  | SIGNATURE      |  |
| <b>Remarks:</b>  |                                    |              |              |                |  |
| <p>The attached material which you contributed to the DCI "Black Book" has been noted by him and returned herewith.</p>                                    |                                    |              |              |                |  |
| <div style="text-align: right;"><div style="border: 1px solid black; width: 150px; height: 40px; margin: 0 auto;"></div><p>Ben Evans<br/>O/ExDir</p></div> |                                    |              |              |                |  |
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13 October 1970

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MEMORANDUM FOR: Mr. Bannerman

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REFERENCES :

1. During the weekend of October 9-10, I spent some time with my neighbor, Congressman Mendel Rivers. There was a wide variety of topics discussed. He mentioned his recent meeting or briefing by Mr. Jack Maury when he saw for the first time photographs relative to the Middle East situation. He further told me of his call to Dr. Kissinger at the White House on the same subject. He asked if I had seen them and it just happened that I had on Wednesday, 7 October. I told him I had seen them with no further discussion.

2. He spoke, as always, in high regard for the Director. He also likes Jack Maury's way of doing things.

3. In any discussions I have had with Mr. Rivers I try to be on the listening end. He is a great backer of the Agency.

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FULBRIGHT AMENDMENT

Section 502 of the Defense Authorization bill, H. R. 17123, which has recently passed both Houses of Congress provides that:

"(a) (1) Not to exceed \$2,800,000,000 of the funds authorized for appropriation for the use of the Armed Forces of the United States under this or any other Act are authorized to be made available for their stated purposes to support: (A) Vietnamese and other free world forces in support of Vietnamese forces, (B) local forces in Laos and Thailand; and for related costs, during the fiscal year 1971 on such terms and conditions as the Secretary of Defense may determine...."

This is similar to previous language but clarifies the authority to support Vietnamese forces in sanctuary areas. However the following new language, known as the Fulbright amendment, was added in the Senate and accepted in Conference with the House:

"Nothing in clause (A) of the first sentence of this paragraph shall be construed as authorizing the use of any such funds to support Vietnamese or other free world forces in actions designed to provide military support and assistance to the Government of Cambodia or Laos."

In discussion on the floor of the Senate it was made clear that this language was not intended to interfere with such operations as our support of the Meo guerrillas in Laos or operations in the sanctuaries supporting U. S. and South Vietnamese forces in South Vietnam:

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Senator Fulbright: "The amendment would carry out the intent of the Armed Services Committee by prohibiting the use of Department of Defense funds to finance Vietnamese [REDACTED] military operations in support of the Cambodian Government. In addition, it would go one step further and prohibit use of Defense Department funds for military actions by these countries in support of the Laotian Government. ...What I am trying to avoid is becoming really involved in a close-scale operation in support of the Government of Cambodia and the Government of Laos.... The amendment will not bother what we give to the Laotians... It will not disturb what has been the past practice in Laos... I do not expect the amendment to affect what has been going on in Laos --that is the bombing of the trail, our assistance to Laos, or what our people are doing there-- because it does not affect that. It is to keep the Vietnamese [REDACTED] from dragging us into another war. In a word that is the purpose of the amendment."

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Senator Stennis: "So the Senator from Arkansas is saying that anything we have going on in Laos now is not to be affected in any way by the amendment he offers?"

Senator Fulbright: "Not that I know of."

Senator Stennis: "I have told the Senator from Arkansas everything that is on my mind. I want to make it clear that I am a 'sanctuary man,' and the Senator from Arkansas agrees to that."

Senator Fulbright: "I accept that. I am not trying to roll back anything. I am trying to prevent any advance."

It was also made clear in the floor debate that the words of the Fulbright amendment simply made explicit what the Armed Services Committee Report stated was the intent of the free world forces language. Senator Stennis agreed with Fulbright that the Fulbright amendment was merely a statutory expression of the intent of the Armed Services Committee.

So far as the Agency is concerned, it has been clear for some time that key congressional leaders familiar with our activities were generally opposed to our financing

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As long ago as last July both Chairman Russell on the Senate side and Chairman Mahon on the House side expressed the view that this sort of thing put too much burden on the Agency budget and was too difficult to

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Since the passage of the Fulbright amendment there have been extensive technical discussions on its precise legal interpretation. Perhaps it can be argued that under some of the special authorities contained in the CIA Act of 1949 we could get by with things which the Fulbright amendment would prevent the Defense Department from doing. Regardless of the fine legal points, however, the intent of Congress as expressed in the above quoted dialogue on the floor and in the Conference report seems clear: neither the Defense Department nor any other Government agency can support outside forces in operations intended to provide military assistance for the governments of Cambodia or Laos.

We had understood that the language of the Fulbright amendment might be modified in Conference between the House and Senate, and we were told by Senator Russell that such modification would be necessary if Agency operations in Southeast Asia were not to be affected. Accordingly our people met with representatives of the Defense Department and discussed the matter with appropriate staff officers of the House Armed Services Committee. Although proposals for modifying the amendment were discussed in these meetings the Defense Department's formal comments on various provisions of the bill did not touch upon the Fulbright amendment. We later learned that the Defense Department not only failed to raise the issue of the Fulbright amendment in its formal

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comments on the bill, but explained that the Administration could "live with" the Fulbright amendment without difficulty. The amendment was thereupon accepted in Conference and has since passed both House and Senate. Thus, in effect, the Agency is under a mandate not to use its legal authorities in a manner inconsistent with the Fulbright amendment.

On 29 September the Director received a call from Chairman Stennis who explained that he supported the Fulbright amendment and that he was opposed to the Agency's involvement in any activities which were not really authorized by the bill. He said he felt we had an obligation to keep our legislative overseers fully informed of any operations in which we were engaged. He added that the Agency should not be used to circumvent any prohibitions imposed on the Defense Department by the Congress.

On 2 October the Director and Deputy Secretary of Defense Packard met with Senator Stennis and reviewed the problem in more detail. In the course of this meeting the Chairman expressed the following personal views:

- a. Any operations in "direct support" of U.S. operations are not precluded by the Fulbright amendment. For example we would be free to support Vietnamese or other free world

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forces in operations to clean out the sanctuary area in Cambodia, but not in operations designed to support and sustain the Cambodian government.

b. The Fulbright amendment was not intended to prohibit operations in the Laotian Panhandle designed to interdict Communist supply lines supporting the Communist effort in South Vietnam.

c. The effective date of the Fulbright amendment is the moment of the President's signature on the authorization bill.

In conclusion it was agreed that the Director would examine the problem on the spot during his upcoming visit to Southeast Asia and discuss it further with the Chairman upon his return.

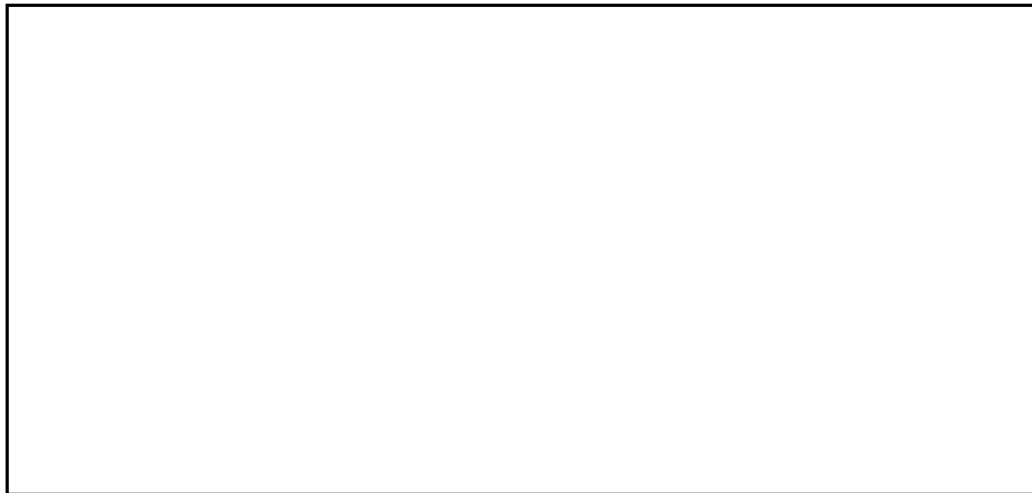
In view of all this, there is not much doubt about the congressional intent behind the Fulbright amendment. To ignore this intent would undoubtedly produce a sharp reaction from the Hill. Indeed it might very well result in legislation revoking the Director's special privileges and authorities which are essential to carrying out the various missions assigned the Agency by the NSC. It might result in far deeper and wider scrutiny of Agency funding with the inevitable security leaks which would follow.

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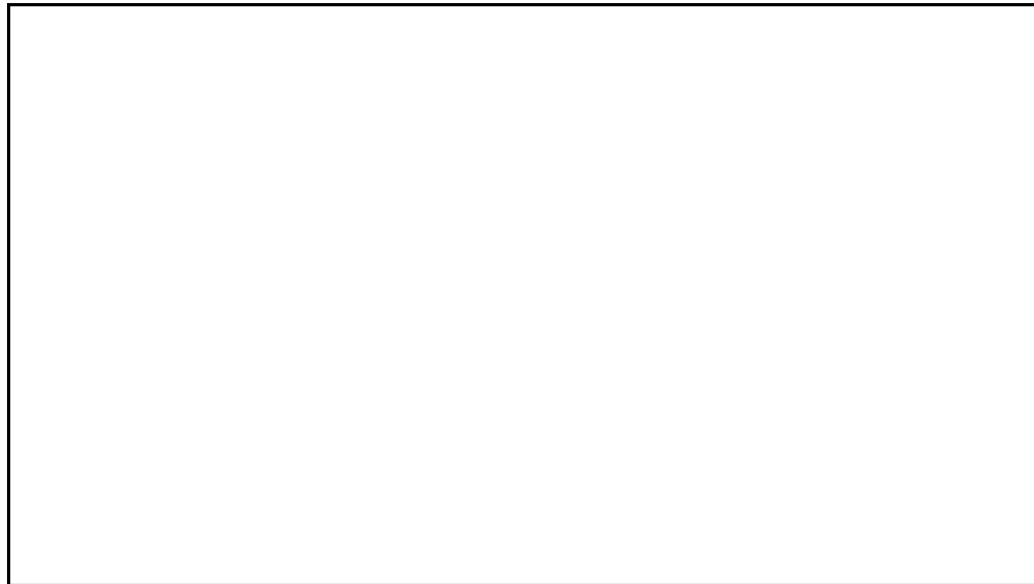
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On the other hand if we observe the letter and spirit of the Fulbright amendment in accord with the mandate of Senator Stennis the policymakers in the Executive Branch will be required to realign several important planned and going operations.

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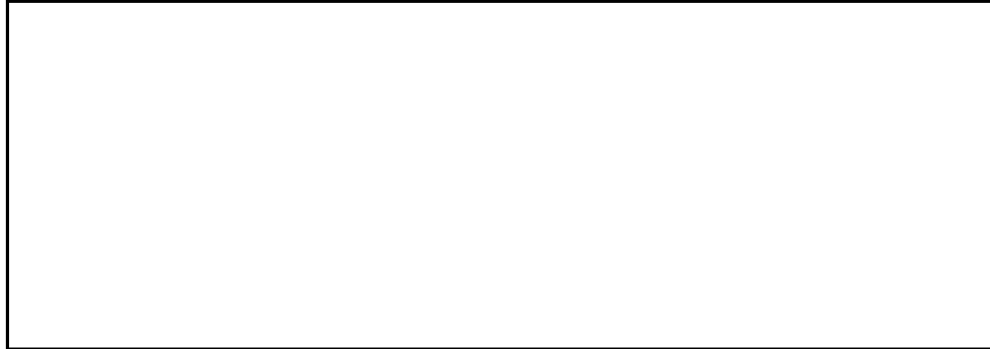
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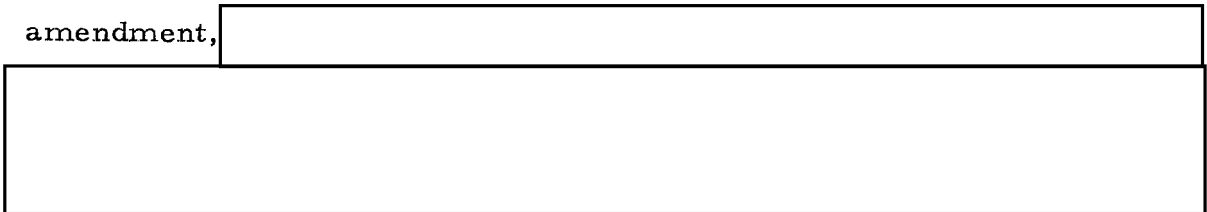
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The Agency's direct support of 40,000 Laotian guerrillas in northern and southern Laos apparently is not affected by the Fulbright amendment,

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Projects now on the books, calling for the recruitment of the

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guerrilla units for use in the Laotian Panhandle to interdict Communist supply lines into South Vietnam also are believed unaffected by the Fulbright amendment.

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PROPOSALS FOR A JOINT WATCHDOG COMMITTEE

The prospects for passage of legislation creating a Joint Committee on Intelligence this session are practically nonexistent. In fact, we see no likely prospects that such proposals will be given serious consideration during the coming year.

The most recent proposals, introduced last summer, stem from the recommendations of the Members of Congress for Peace Through Law, a group of some 38 Senators and 70 Representatives who spearheaded the fight against further ABM deployment and who are interested in reordering priorities from defense to domestic needs as they see them.

The Members of Congress for Peace Through Law were explicit in outlining the objectives and functioning of the proposed Committee:

- a. To be fully informed on all foreign intelligence-- including national intelligence estimates.
- b. To study all problems relating to the gathering, coordination, and use of intelligence.
- c. To limit covert actions to assure they are not inconsistent with publicly expressed national policy.

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d. To serve as official liaison between the Congress and the National Security Council.

e. To provide members from the Committee to represent the Congress as non-voting members on the United States Intelligence Board.

f. To render annual reports to the Congress on the functioning of the Committee.

g. To exercise jurisdiction over all elements of the intelligence community--CIA, DIA, NSA, INR, Army, Navy and Air Force Intelligence, and other services engaged in foreign intelligence activities.

These provisions ignore the separation of powers between the Legislative and Executive Branches by providing, in effect, a Congressional Board of Governors to oversee the President's intelligence processes.

The issue of a Joint Intelligence Committee concerns the organization of the Congress. The position of the Executive has been that it should be resolved by the Congress. In essence, such proposals are an attack on the existing committee structure of the Congress. However, a number of arguments pro and con have been advanced:

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Pros

a. On the positive side it has been argued that the existence of a Joint Committee with members from both Houses and from the standing committees dealing with both defense and foreign relation matters would assure the skeptics that the Agency is being adequately supervised. Some contend that as such the committee could serve as a defender of the Agency.

b. By providing one point of contact for the Agency and the intelligence community, a Joint Committee would make more orderly the conduct of business between the intelligence community and the Congress.

c. A Joint Committee with representatives from the Foreign Affairs and Foreign Relations Committees would tend to mute a frequent source of criticism from these committees by recognizing their legitimate interest and keeping them better informed.

d. Finally, a Joint Committee could promote a better congressional appreciation of the needs of the intelligence community through the utilization of professional staff members devoting full time to community problems.

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Cons

- a. Probably the chief obstacle to the establishment of a Joint Committee is the problem of committee jurisdiction. Other than CIA and AEC, all of the elements of the intelligence community are components of other Federal departments and agencies under the jurisdiction of existing standing committees. Thus, the establishment of a Joint Committee on intelligence would immediately raise jurisdictional problems. Simply stated, Armed Services Committees would not relinquish jurisdiction over DIA, NSA, ONI, etc.
- b. Another consideration is the multitude of security problems that could exist where vast amounts of sensitive information would be in the possession of persons outside the security discipline of the Executive Branch.
- c. A Joint Intelligence Committee could result in a direct challenge to the prerogatives of the Executive. Finished intelligence is primarily a tool of the Executive in the formulation and execution of national policy. However it is only one of several ingredients that go into policy formulation. If viewed in isolation from other factors to

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which the Executive alone might be privy it might dictate courses of action at sharp variance to those decided upon by the Executive. This could involve the intelligence function in major disagreements between the Executive and Legislative Branches. This same kind of disagreement could arise in connection with covert operations.

d. The mission of the professional staff members of a Joint Committee would be to keep on top of the Agency and the intelligence community. This could disrupt established lines of command and interfere with the management of the intelligence organizations.

#### SUMMARY

In summary then, regardless of what one thinks of the balance between the pro and con arguments, a Joint Intelligence Committee has little chance for early approval since it represents a direct attack against the existing committee structure and against the way the "congressional establishment" has carried out its responsibilities.

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## United States Senate

WASHINGTON, D.C. 20510

October 8, 1970

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ACTION  
is assigned to

P

The Honorable William P. Rogers  
Secretary of State  
Department of State  
2201 C Street  
Washington, D. C. 20520

Dear Mr. Secretary:

In view of discussions now being held on the feasibility of reducing the American presence overseas, I am writing you to enquire into the status of Radio Free Europe (RFE) and Radio Liberty (RL). Specifically, I would be grateful to know:

- 1) Is the U. S. Government involved in either RFE or RL?
- 2) Could the Voice of America assume the functions of either RFE or RL?
- 3) Are any U. S. foreign policy aims served by either RFE or RL?
- 4) Do broadcasts by either RFE or RL hurt the possibilities for better relations with the countries of Eastern Europe?
- 5) Is either RFE or RL scheduled for budget reductions or termination?

Sincerely,

*Clifford P. Case*  
Clifford P. Case  
U. S. Senator

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RS/AN  
ANALYSIS BRANCH

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